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## REMARKS

This response intended as a full and complete response to the non-final Office Action dated February 20, 2004. In the Office Action, the Examiner notes that claims 2-40 and 42-48 are pending, of which claims 2-40 and 42-48 stand rejected. By this amendment, claims 2, 22, 44, and 48 have been amended, claims 1, 21, and 41 continue as being cancelled, claims 3-20, 23-40, 42-43, and 45-47 continue unamended.

In view of both of the amendments presented above and the following discussion, the Applicant submits that none of the claims now pending in the application are obvious under the provision of 35 U.S.C. §103. Thus, the Applicant believes that all of these claims are now in allowable form.

## REJECTIONS

### 35 U.S.C. §103

#### Claims 2-20, 22-40 and 42-48

The Examiner has rejected claims 2-40 and 42-48 under 35 U.S.C. §103 as being obvious over Sicher et al. (U.S. Patent No. 6,385,195, issued May 7, 2002, hereinafter "Sicher") in view of Fitch et al. (U.S. Patent No. 6,647,389, issued November 11, 2003, hereinafter "Fitch"). The Applicant respectfully traverses the rejections.

The Applicant has amended independent claims 2, 22, and 44 to further clarify the features the Applicant considers as being inventive. For example, independent claim 2 (and similarly independent claims 22 and 44), as amended, recites:

> "A method for accepting streamed media packets sent from a content provider and converting said streamed media packets to a pulse code modulated (PCM) signal stream, said method comprising the steps of:
> receiving, via a first interface, a request for a specified media content available from said content provider, said specified media content comprising at least on of live and archived m dia content;

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> establishing, responsive to receipt of said request, a session
> with said content provider to receive said streamed media packets
> corresponding to said specified media content, said streamed
> media packets being encoded media packets adapted to one of a
> plurality of encoded streaming media formats;
>           transcoding said streamed media packets to form a PCM
> signal stream corresponding to said specified media content; and
>           launching said PCM signal stream onto a network operable
> to convey said PCM signal stream to a user making said request."
> (emphasis added).

"The test under 35 U.S.C. § 103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Thus, it is impermissible to focus either on the "gist" or "core" of the invention, Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 USPQ 416, 420 (Fed. Cir. 1986) (emphasis added). Furthermore, the mere fact that a prior art structure could be modified to produce the claimed invention would not have made the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992); In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added)."

The combined references fail to teach or suggest "establishing, responsive to receipt of said request, a session with said content provider to receive said streamed media packets corresponding to said specified media content, said streamed media packets being encoded media packets adapted to one of a plurality of encoded streaming media formats." Therefore, the combination of Sicher and Fitch fails to teach or suggest the Applicant's invention as a whole.

In particular, the Sicher reference attempts to solve a problem of performing interworking functions between mobile-specific voice encoding protocols on the mobile radio side of a connection and Voice-over-internet

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Protocol (Voice-over-IP) encoding protocols (sometimes referred to as Voice-on-
Net or VON) on the Internet side of the connection (see Sicher, col. 1, lines 55-
64). The Sicher reference solves this problem by disclosing an enhanced
interworking function module (E-IWF) that provides the means for a mobile
station to interface voice and fax with the Internet. That is, the IWF enables a
mobile subscriber to make an IS-136 (digital) voice call to another Internet
subscriber or to a landline terminal via an IP based network (e.g., the internet)
without going through the PSTN and an extra analog conversion  (see Sicher,
col. 4, lines 50-54).

More specifically, live voice signals are encoded in a mobile station into
voice frames which are multiplexed in a base station and transmitted to the E-
IWF. The E-IWF transcodes the voice frames in a first codec into an isochronous
stream of digitized voice samples, such as a pulse code modulator (PCM) signal
stream. The isochronous PCM stream is then transcoded, via a second codec,
into a voice-over-IP (VoIP) format. The output of the second codec is a service
data unit (SDU) which is framed utilizing a transport layer protocol into
segmented datagrams. The IP datagram stream is then carried by one of a
plurality of lower-layer protocol, such as, for example, CSMA/CD, frame relay,
among others. (See Sicher, column 3, lines 17-34 and col. 6, lines 28-61). That
is, E-IWF of the Sicher reference performs two transcoding steps to first change
the voice AFR frames into a PCM signal, and then transcode the PCM signal into
segmented datagrams prior to transmitting such datagrams.

The Applicant's invention differs from the Sicher reference, since the
Applicant's invention initially, receives, via a first interface, a request for specified
media content available from a content provider. The Applicants have defined
the content provider as an entity that provides "at least one of live and archived
media content," where the media content are further defined as "encoded media
packets adapted to one of a plurality of encoded streaming media formats." For
example, such encoded streaming media formats may include MP3, Windows
Media, and R alAudio formats, among others. Thus, the content provider, as

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claimed by the Applicant, provides packets associated with an encoded
streaming media format, as opposed to digitized <u>voice</u> samples.

In particular, "the MGA 120, [of the present invention], provides three
types of media streaming services, including: (i) web-casted live content, for
example, <u>Internet radio provided by content providers</u> such as SHOUTcast.com
or Broadcast.com, (ii) <u>on-demand content providers</u> such as RealNetworks,
MP3.com or any myriad of web-sites which maintain archived media files <u>at their</u>
<u>servers</u>, and (iii) profile playback, which allows users to maintain a user profile
database at the MGA 120 server, the profile being used to select content for
playback to the client cell phone 130." (see Applicant's specification, page 7,
lines 3-11 (emphasis added)).

Nowhere in the Sicher reference is their any teaching, or even suggestion,
that the streamed media packets <u>from the content provider</u> comprise "encoded
media packets adapted to one of a plurality of encoded streaming media
formats." By contrast, the Sicher reference merely discloses that only <u>voice</u>
<u>signals</u> are first encoded into a digital signal (e.g., ATR signal), which is
transcoded into a PCM signal, then the PCM signal is transcoded into a VoIP
format (see Sicher, col. 5, lines 4-35, col. 6, lines 34-61, and FIGS. 2 and 3).

Furthermore, nowhere in the Sicher reference is there any teaching or
suggestion that <u>a session is established with a content provider</u>, as defined by
the Applicant. Rather, the Sicher reference merely discloses a method of
interworking between cellular voice protocols in a time division multiple access
(TDMA) <u>cellular telecommunications network</u>, and Internet protocols being
utilized by an Internet End-System (ES). The method and translations of Sicher
are all performed in the cellular telecommunications network to translate a PCM
stream of digitized voice samples into a VoIP format (see Sicher, col. 6, lines 33-
62). "The E-IWF 14 then interfaces on the network layer (and lower layers) with
an Internet Service Provider (ISP). The ISP access network provides
generalized access to the Internet backbone, and also supports tunneling
indirectly to corporat  intranets." (see Sicher, col. 7, lines 7-18). Thus, the Sicher

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reference fails to teach or suggest "establishing, responsive to receipt of said request, a session with said content provider to receive said streamed media packets corresponding to said specified media content, said streamed media packets being encoded media packets adapted to one of a plurality of encoded streaming media formats."

Furthermore, the Fitch reference fails to bridge the substantial gap as between the Sicher reference and the Applicant's invention. The Fitch reference attempts to solve a problem of providing users that want to connect with high quality resources that provide the type of entertainment or service of their preference (e.g., audio and video content available from web pages, such as RealPlayer, Windows Media Player, and the like). However, conventional streaming media sources suffer from a variety of deficiencies, e.g., network delays, user congestion, short interruptions, garbled fidelity, lack of service, and the like. (see, Fitch, col. 1, line 49 to col. 2, line 21).

The Fitch reference solves this problem by disclosing that:

> [a] Universal Stream Tuning Service (USTS) 120 enhances the ability of users to locate and receive media streams from the Internet. The USTS 120 provides a very general tuning service designed to enable use of the USTS from a plurality of other USTS-enabled services 130, including Web sites 128 and other protocol servers 129, which may be provided by third parties. ... The streams used with the USTS are sourced from media stream provider servers 140. Content supplied from media stream provider servers 140 may include: Internet simulcasts of conventional radio and TV broadcasting programs; On-demand streams, such as playing the latest news or weather on request, or playing selections from an entertainment library; Netcasts, ...; Live events, such as concerts, sports, press conferences, conventions, etc.; ... and Archives, which contain programs broadcast previously. (see Fitch, col. 3, line 40 to col. 4, line 4). (emphasis added)

Thus, the Fitch reference merely discloses an automated method for periodically evaluating media streams on a network of computers to determine the availability of various media streams and identify various characteristics of each stream (see Fitch, abstract).

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Even if the two references could somehow be operably combined, the combination would merely disclose, providing speech transcoding and data interworking within a general purpose Interworking Function (IWF) such that voice signals may be transported across the Internet, and content on the Internet includes streamed media content, such as live·events and archived content. However, nowhere in either reference is there any teaching or suggestion that a user establishes a session with a content provider. Nor is there any teaching or suggestion that the transcoding of voice signals to PCM signals, and subsequent transcoding of the PCM signals into a VoIP format can be operably utilized to receive encoded media packets adapted to one of a plurality of encoded streaming media formats, by transforming the encoded streamed media packets into a PCM signal for transmission to, illustratively, a mobile device.

The mere fact that a prior art structure could be modified to produce the claimed invention would not have made the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992); In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). The Sicher reference is limited to disclosing sampling and encoding (e.g., IS-641 (AFR) a user's voice into voice frames, transcoding the voice frames into a PCM stream of digitized voice samples, and trancoding the PCM stream into a VoIP format. Nowhere is there any teaching or suggestion that such transcoding may be operably performed for encoded media packets adapted to one of a plurality of encoded streaming media formats.

The mere fact that such encoded streaming media formats (e.g., MP3) exist, as disclosed by Fitch, in conjunction with transcoding of voice signals to VoIP, as disclosed by Sicher, does not explicitly or implicitly teach, infer, or suggest the Applicant's invention, which comprises "establishing, responsive to receipt of said request, a session with said content provider to receive said streamed media packets corresponding to said specified media content, said streamed media packets being encoded media packets adapted to one of a plurality of encoded streaming media formats; transcoding said streamed media

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packets to form a PCM signal stream corresponding to said specified m dia content; and launching said PCM signal stream onto a network operable to convey said PCM signal stream to a user making said request."

Furthermore, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The Applicant's invention solves a problem not contemplated by the teachings of the prior art. The Applicant's invention solves the problem of providing streamed audio content, such as MP3, RealAudio, and Microsoft Media formatted content, to a to a user on a network capable of conveying a PCM signal, such as a cellular telecommunications network. Neither the Sicher or Fitch references, either singularly or in combination, address or solve this problem in a manner as claimed by the Applicant.

In particular, the Applicant's invention, as claimed, receives a request for a specified media content from a content provider. Such content is defined by the Applicant as streamed media packets being encoded media packets adapted to one of a plurality of encoded streaming media formats. Upon receiving such a request, a session is established with the content provider. Both references fail to teach or suggest establishing a session with the content provider. Once the session is established, the requested content, i.e., the media packets adapted to one of a plurality of encoded streaming media formats, is transcoded to form a PCM signal stream, and the PCM signal stream is launched on to a PCM capable network to the requester. Therefore, the Sicher and Fitch references fail to teach or suggest, either singularly or in combination, the Applicant's invention as a whole.

As such, the Applicant submits that independent claim 2, as amended, is not obvious and fully satisfies the requirements under 35 U.S.C. §103 and is patentable thereunder. Likewise, independent claims 22 and 44, as amended, recite similar limitations as recited in independent claim 2. As such, and at least for th same reasons as discussed above, the Applicant submits that

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independent claims 22 and 44 are not obvious and fully satisfy the requirements
under 35 U.S.C. §103 and are patentable thereunder.   Furthermore, claims 3-20,
23-40, and 45-48 respectfully depend, either directly or indirectly, from
independent claims 2, 22, and 44, and recite additional features thereof. As such
and at least for the same reasons as discussed above, the Applicant submits that
these dependent claims are also not obvious and fully satisfy the requirements
under 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicant
respectfully requests that the rejection be withdrawn.

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## CONCLUSION

Thus, the Applicant submits that the pending claims are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Steven M. Hertzberg or Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

_5/19/04_

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